

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMILIANO ERMINI,))
)) Civil Action No. 12-cv-06100 (LTS) (HJP)
))
Petitioner,)) <u>Notice of Motion</u>
))
v.))
))
VIVIANA VITTORI,))
))
))
Respondent.))
))

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in support of Respondent's motion *in limine* to preclude certain Petitioner testimony and for an adverse inference, and upon the accompanying Declaration of Jacob Press, dated January 9, 2013, and the exhibits thereto, Respondent, by her undersigned attorneys, will move this Court, before the Honorable Laura Taylor Swain, United States District Judge for the Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, NY 10007-1312, on January 22, 2013, for an order: (1) precluding Petitioner Emiliano Ermini from testifying at trial regarding subjects about which he refused to answer questions at his deposition, including his family's presence in Suffern, New York in 2011 or the circumstances under which they lived there, and any purported agreement that would have permitted him to return to his job in Italy, from which he resigned in 2011; (2) adopting an adverse inference that his 2011 email communications would rebut his claims in this case, based upon Ermini's refusal to provide electronic discovery, and granting such other and further relief as the Court deems just and proper.

This motion *in limine* is not amenable to informal resolution.

Dated: New York, New York
January 9, 2013

Respectfully submitted,

WILMER CUTLER PICKERING HALE
AND DORR LLP

/s/ Jacob Press

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